

**MINUTES  
of the  
SIXTH MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**November 18-19, 2014  
State Capitol, Room 311  
Santa Fe**

The sixth meeting of the Science, Technology and Telecommunications Committee for the 2014 interim was called to order by Senator Michael Padilla, chair, on Tuesday, November 18, 2014, at 9:40 a.m. in the Room 311 of the State Capitol in Santa Fe.

**Present**

Sen. Michael Padilla, Chair  
Rep. Carl Trujillo, Vice Chair  
Rep. Kelly K. Fajardo  
Rep. Roberto "Bobby" J. Gonzales (11/19)  
Rep. Jason C. Harper  
Sen. Linda M. Lopez (11/19)  
Sen. Bill B. O'Neill (11/18)  
Rep. Debbie A. Rodella (11/18)  
Sen. John C. Ryan  
Rep. James E. Smith

**Absent**

Sen. William F. Burt  
Rep. Luciano "Lucky" Varela  
Rep. Monica Youngblood

**Advisory Members**

Rep. Stephanie Garcia Richard (11/18)  
Sen. Phil A. Griego  
Sen. Ron Griggs  
Sen. Timothy M. Keller  
Sen. Richard C. Martinez  
Sen. William H. Payne (11/19)  
Rep. Jane E. Powdrell-Culbert

Sen. Carlos R. Cisneros  
Rep. Bill McCamley  
Sen. Steven P. Neville  
Sen. Mary Kay Papen  
Sen. Nancy Rodriguez  
Rep. Nick L. Salazar  
Rep. Don L. Tripp  
Sen. Peter Wirth

**Guest Legislator**

Rep. Thomas A. Anderson

(Attendance dates are noted for members not present during the entire meeting.)

**Staff**

Gordon Meeks, Legislative Council Service (LCS)  
Ralph Vincent, LCS  
Carolyn Ice, LCS

**Minutes Approval**

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Tuesday, November 18**

Senator Padilla began with introductions from members of the committee and LCS staff.

**Department of Information Technology (DoIT) Spreadsheet**

Darryl Ackley, secretary, DoIT, told the committee that the department is currently working on another report concerning the current progress of projects and their related finances. Secretary Ackley provided the committee with a presentation of the current projects from the DoIT's Enterprise Project Management Office, denoting the agency and total amounts involved.

Secretary Ackley told the committee that the Automated System Program and Eligibility Network (ASPEN) will replace the current Income Support Division of the Human Services Department (HSD), Integrated Service Delivery (ISD2) Systems and several other interfaces with other agencies with one integrated system. This project was successfully closed in June.

The Statewide Integrated Radio Communication Internet Transport System (SIRCITS) is projected to be completed in September 2015. Tower construction activities are completed at 24 sites with three sites close to completion. The Motor Vehicle Division (MVD) system modernization is a complete replacement of the current MVD Application Systems (Tapestry). The project will move the current system off of a multiplatform, hybrid system into a single-platform, customer-centric model that will utilize current technology. The project is tracking within scope, schedule and budget.

The ASPEN public assistance eligibility determination system will be enhanced to accommodate the transition from the federally facilitated marketplace to a state-based marketplace that will be implemented by the New Mexico Health Insurance Exchange (NMHIX). The project has been delayed by the NMHIX. The organization voted in July to postpone "Go-Live" for one year. The DoIT is working with the NMHIX to re-baseline the project to align with the new rollout date.

The HSD's existing Medicaid Management Information System (MMIS) and the Children, Youth and Families Department's enterprise provider information constituent services

multiphase/multiyear project are currently undergoing enhancements to consolidate legacy programs. Other updates include the State Lands Office's Land Information Management System (LIMS), which is projected to be completed by the end of January 2016. LIMS will replace the existing surface and mineral land management, leasing and associated financial functionality of the Oil and Natural Gas Administration and Revenue Database (ONGARD). The Taxation and Revenue Department's GenTax Upgrade Proposal and ONGARD modernization is on track within scope, schedule and budget. The fiscal year (FY) 2016 total Computer Systems Enhancement Fund requests are approximately \$57,353,700.

Questions and discussion topics from the committee members included:

- whether a multiphased funded system helps the DoIT stay up to date with current technology;
- maintenance of equipment;
- emergency response equipment;
- cloud engagements and data classification;
- new platform utilization;
- a three-year strategic plan; and
- a statewide communications plan.

#### **Partnership for Assessment of Readiness for College and Careers (PARCC) and Student Teacher Accountability Reporting System**

Secretary Ackley, Michael Archibeque, chief information officer, Public Education Department (PED), and Ferdi Serim, IT business analyst, PED, spoke about the upcoming plans for the PED. In November and December 2014, the PED will offer on-site technology training for implementing the PARCC and math assessments on the Pearson test. Mr. Serim spoke about the trainings for test and technology coordinators that will cover the following:

- determining if computers adhere to testing requirements;
- determining the testing capacity infrastructure;
- setting up caching computers and proctor work stations;
- uploading and correcting student biodata;
- assigning student accommodations;
- scheduling;
- setting up students for practice tests;
- setting up students for operational tests; and
- gathering concerns and recommendations for future trainings.

Each school district and state charter school is responsible for sending test and technology coordinators to one of the trainings. The information from these trainings will then be used to provide training for school sites. After the training, schools will have the ability to create new files and accounts when needed.

Eighty-eight thousand devices are ready for testing, and 84% of computers are ready. Mr. Serim told the committee that he expects the numbers to go up and that there is a concerted effort to get schools ready in time for testing. People around the state are learning to install this software, and although there are not enough IT professionals in the state, they are coming together to meet the deadline of March 2, 2015. They hope that when students sit down for the test, there will be familiarity, which will lead to success.

Questions and discussion topics from the committee members included:

- how small rural schools can tap into this program;
- bandwidth;
- a road map to a successful deployment;
- the PARCC infrastructure.

### **Power for Progress**

Ron Darnell, senior vice president, public policy, PNM Resources, told the committee that there is an obligation to invest in technology to operate efficiently. He told the committee that New Mexico must continue to invest in the grid to maintain reliability and provide for a cleaner environment, and these actions are critical to ensuring that the state has electricity to power New Mexico's economy.

Since the last rate case filing in 2010, changes and improvements, coupled with the cost of maintenance and support, have required PNM to make significant investments. PNM is working to embrace these changes to better serve customers while keeping rates affordable. PNM is also moving to make a fundamental shift to reduce pollution.

Currently, PNM rates compare favorably nationally. By 2016, renewable energy resources will provide power needed by 150,000 average residential customers. Regarding the San Juan Generating Station, Mr. Darnell told the committee that units 2 and 3 will be closed in 2017, which will cut water use and emissions by about 50%.

Capital investments, operating expenses and cost adjustments will all be considered for PNM's rate filing, which will be submitted by the end of the year.

Questions and discussion topics from the committee members included:

- fixed costs;
- how individuals at different income brackets will be affected;
- power generation;
- electric rates;
- recharacterizing the metering;
- a quasi-governmental entity;
- performance of renewables; and

- using Arizona as an example.

### **Higher Education Institutions' Accounting System Status (BANNER)**

Max Baca, vice president, New Mexico Highlands University, told the committee that the goal of the universities is to share resources and leverage aggregation of networks to provide increased bandwidth and high availability while reducing costs. He gave the committee a brief overview of the 36 years of collaboration among New Mexico higher education IT departments.

BANNER is currently used by most higher education institutions in New Mexico. The new version of BANNER will be rolled out throughout 2016. The majority of schools have not had training in over 15 years, and increasing maintenance contract costs pose challenges. For the 2015 legislative session, the universities are requesting one-time funding for statewide training, upgrades and equipment purchases.

Questions and discussion topics from the committee members included:

- involvement of the DoIT;
- funding requests;
- an underlying database of relief;
- smaller schools and BANNER involvement;
- details of upgrades; and
- future higher education students.

### **MVD System Modernization Project to Implement an Integrated Driver and Vehicle System**

The MVD is operating a series of hybrid mainframe/web application systems that are outdated and difficult to maintain. In a strategic planning session in 2009, employees expressed the need to upgrade. The MVD would like to replace the current system for driver and vehicle transactions, while meeting all 752 request-for-proposals (RFP) requirements. These services include licenses, identification cards, titles, registrations and citations.

After completing the independent verification and validation periodic assessment for October 2014, the overall status of the MVD system modernization project is green. Project leadership continues to actively monitor project activities and assess risks. All core team members have had hands-on experience with the Tapestry, and several large live demonstrations have been held publicly.

The MVD is currently building test scenarios while simultaneously pre-testing various system functions. System testing began on November 21, 2014, and full team training commenced with site-specific training materials in December 2014. The funding request totals \$45,617, which has been justified by significant positive progress on the Tapestry project. Without the additional funds requested for FY 2016, the project will have to cease operations after the delivery of driver services.

Questions and discussion topics from the committee members included:

- title work;
- Tapestry; and
- RFP requirements.

### **E-911 and Funding Public Safety Answering Points**

Ken Martinez, E-911 director, Santa Fe County; Shirley Whatley, 911 director, Valencia County; and David Ripley, E-911 director, San Juan County, gave a presentation to the committee on the development and implementation of accreditation for 911 centers in New Mexico under the New Mexico Association of Counties and the New Mexico Municipal League. This is the first program of its kind in the country for the local accreditation of 911 centers.

Each center must meet the qualification criteria according to 108 approved standards. The standards were developed according to best practices for 911 centers and were selected by a committee composed of 911 professionals from across the state.

The directors expressed concern for the 911 funds after they had been targeted as a resource for funding projects outside the realm of emergency response. Additional legislation may include a proposal to include voice over internet protocol (VOIP), prepaid wireless and any other technology capable of calling 911 and contributing to the 911 surcharge. This is an effort to recoup money being lost by telephone users transitioning from land lines to mobile phones, VOIP phones and other technology.

Questions and discussion topics from the committee members included:

- the number of 911 centers in the state;
- an update on upgrades; and
- current charges for land lines and cell phones.

### **Renewable Taos**

John Gusdorf and Jay Levine, board of directors, Renewable Taos, presented proposed legislation supporting shared renewable energy facilities. Mr. Gusdorf began with an overview explaining the definition of a shared renewable energy facility and explained the function of a consumer subscription of shared energy. A shared renewable energy facility generates renewable energy and allows individuals or businesses the opportunity to purchase subscriptions. A subscription entitles its owner to a percentage of the facility's monthly production, which is then subtracted from the owner's monthly electricity bill.

The benefits of renewable energy facilities include making renewable energy available to

those who cannot have, or do not wish to have, equipment on their property and its affordability for the majority of consumers. Mr. Gusdorf also addressed concerns on retail wheeling, which he defined as "the transmission of electricity from a wholesale supplier to another wholesale supplier by a third party". He told the members of the committee that there are no issues with wholesale wheeling, but he said that the proposed bill makes it clear that shared renewable facilities are "virtual net metering" and not retail wheeling.

The proposed legislation would modify the Public Utility Act to provide that shared renewable energy facilities are on the sites of the subscribers and should be treated the same as facilities on a host's site. The bill would also allow energy cooperatives to permit shared renewable energy facilities on a voluntary basis.

Questions and discussion topics from the committee members included:

- wholesale prices;
- power distribution;
- electricity from tri-state substations;
- distribution lines;
- rate structure issues;
- Public Regulation Commission (PRC) involvement; and
- variable and fixed costs.

## **Recess**

The meeting recessed at 4:02 p.m.

## **Wednesday, November 19**

### **Proposed Legislation for Endorsement**

#### *Angel Investment Tax Credit*

Representative Powdrell-Culbert told the committee that she was not seeking endorsement for the bill. Representative Powdrell-Culbert began with a brief overview of angel investors. Angel investors are affluent individuals who provide capital for new businesses. In addition to funds, angel investors often provide valuable management advice and important contacts. Angel investors often fill the gap in start-up financing between "friends and family", who provide seed funding and form venture capital. Representative Powdrell-Culbert told the committee that she wants people to be aware of the investments that angel investors have made in New Mexico and their beneficial role in entrepreneurial endeavors in the state.

Angel investments bear extremely high risks and are sometimes subject to dilution from future investment rounds. Currently, investors can receive tax credits for investments up to \$250,000. There are 60 accredited investors in New Mexico who review more than 250 investment deals annually. Representative Powdrell-Culbert told the members of the committee that angel investors help propagate entrepreneurial efforts in the state and help retain local

inventors.

Questions and discussion topics from the committee members included:

- examples of the program's successes;
- expectations of the program;
- when results/successes would be quantified/measured;
- measurements of success;
- the purpose of the angels;
- things to help market the program;
- the investment process;
- job creation; and
- involvement of the committee at an angels investment meeting.

#### *Hydrogen Tax Credit*

Senator Cisneros was seeking endorsement by the committee for the hydrogen tax credit. It was first introduced in 2011, but it was pocket vetoed. The number of jobs it would create is unclear, but Senator Cisneros insists that this legislation is needed in New Mexico.

Nearly half of U.S. taxpayers have some form of tax credits or incentives for the production of renewable fuels, including biodiesel and ethanol. With the increasing use of hydrogen fuel cells for the production of electricity and fuel-cell vehicles, the consumption of hydrogen as a fuel is increasing rapidly. The gas industry in New Mexico can also benefit from this bill because every single product that is developed at refineries requires hydrogen to produce the product.

The fiscal impacts of the bill are minimal, and there is no immediate negative financial impact on the state budget.

The committee agreed to endorse this legislation.

Questions and discussion topics from the committee members included:

- whether this includes a provision and cap; and
- other differences in the revision.

#### *E-911 Funding*

This proposed legislation would amend, repeal and enact sections of the Enhanced 911 Act and would amend sections of the Enhanced 911 Bond Act to provide for surcharges to be imposed on communications services, including VOIP subscriptions and electronic data networks.

Although there is no official sponsor, Representatives Rodella and Gonzales expressed



interest in endorsing the legislation, and the committee agreed to endorse it.

Questions and discussion topics from the committee members included:

- clarification on phones and the number of phone lines;
- recouping funds; and
- enhancement of surcharges.

#### *State Investment Council Investments in Technology Commercialization*

Senator Padilla told the committee that students often leave the state to get gap funding. Senator Padilla told the committee that the state needs to help students get to the next step while they are in higher education institutions to reach the prototype stage. In the last legislative session, the bill did not make it to the floor.

#### *Broadband Fund*

Senator Padilla spoke on a bill that would create an appropriation for a broadband fund. This fund will sit until a community secures federal dollars to complete a match. He told the committee that he is not seeking endorsement at this time and emphasized that broadband expansion and access would help communities in New Mexico generate jobs.

Questions and discussion topics from the committee members included:

- the history of broadband legislation;
- infrastructure development;
- the mechanics of this fund in relation to CenturyLink or cooperatives;
- the DoIT identifying areas that are underserved;
- avenues of funding;
- the PRC is looking at a state universal fund;
- establishing a permanent broadband fund;
- areas of disconnect;
- what has already been invested with a 50/50 match;
- effective use of taxpayer dollars; and
- matching dollars with federal dollars.

#### *Mobile Device Kill Switch*

This bill, prefiled as Senate Bill (SB) 67, introduced by Senator Padilla, would require smartphone manufacturers to add the capability of a shut-off function, or "kill switch", to remotely disable a mobile device in the event that it is lost or stolen. Currently, theft accounts for 18% of crimes at the University of New Mexico. Apple phones are already preloaded with an application that erases device data. The legislation includes all mobile devices.

California and Minnesota have already adopted legislation with similar functions. SB 67 would be applied to all new devices sold in the state starting in July 2016, and it would also

prohibit retailers from paying cash for electronic devices.

Questions and discussion topics from the committee members included:

- whether mobile device companies are supportive of the legislation;
- representation of the wireless industry in the U.S.;
- installation on a preexisting phone;
- whether it is optional for companies; and
- the costs from the companies.

#### *Data Breach*

HB 224 was first introduced by Representative William "Bill" R. Rehm in 2014, but it was presented to the committee by Representative Smith. Currently, 47 states have security breach laws; New Mexico, Arizona and Hawaii are the only states without data breach laws. The Neiman Marcus data breach, which involved card data being stolen over an eight-month period in 2014, was a pivotal moment for cybersecurity legislation.

Representative Smith told the committee that with the possibility or confirmation of a data breach, the state must notify individuals within 10 business days, and the attorney general must be notified within 10 business days if more than 50 New Mexico residents are affected. The bill allows for a shorter notification deadline and gives customers the ability to sue for recovery costs and statutory damages.

Individuals affected by a security breach will be provided notification of a breach by: 1) United States mail; 2) electronic notification; or 3) substitute notification, if the entity demonstrates that the cost of providing notification would exceed \$100,000, the number of residents to be notified exceeds 50,000 or the entity does not have a record of the physical addresses for the customers affected.

Questions and discussion topics from the committee members included:

- why New Mexico does not have this;
- why this bill did not pass;
- treatment of national data breaches;
- what recourse individuals have besides taking civil action;
- specific liability language; and
- the difficulty of finding a source right away.

#### **Right to Deploy Transmission by Distribution Utility**

##### *Xcel Energy*

Varney Brandt, Duane Ripperger and Bill Grant of Xcel Energy gave a presentation on proposed legislation to provide for the right of first refusal (ROFR) to public utilities or generation and transmission cooperatives. Mr. Brandt reported that the proposal is similar to the

legislation introduced in 2013.

Mr. Brandt added that the Southwestern Public Service Company (SPS) transmission grid located in New Mexico and Texas currently employs 1,700 people and operates 7,000 miles of transmission lines with 107,000 customers in New Mexico alone. SPS is constructing 300 miles of new transmission lines in southeastern New Mexico, which will provide additional transmission, increased reliability of service and the ability to serve additional load requirements.

The Federal Energy Regulatory Commission (FERC) regulates interstate commerce in gas, oil and electricity and enacts regulations to provide energy services. FERC Order No. 1000 was issued to meet public policy and reliability needs, ensure the build-out of transmission and enable a robust energy market. The PRC is responsible for the reliability of the system and has oversight of construction of new lines in the state.

The ROFR legislation provides public utilities, rural cooperatives and generation and transmission cooperatives the first option to construct new lines after the approval of a regional transmission organization. The legislation also provides an ownership mechanism between local utilities and cooperatives for lines. Seven other states have enacted ROFR legislation or have passed laws that protect state oversight. Mr. Ripperger emphasized that ROFR legislation is needed to ensure that the PRC can maintain control over the development of new transmission.

#### *LS Power*

Sharon Segner, vice president, LS Power, gave members of the committee an update of the changes within the past two years that might affect ROFR legislation. Ms. Segner told the committee that LS Power is a large national energy company that has raised over \$20 billion to support energy infrastructure across the U.S. LS Power focuses on generation and transmission, and over the past two years, it has completed 500 miles of competitively built transmission and public utilities in Texas.

Ms. Segner expressed concern over the federal implications of the ROFR legislation. She presented a map of New Mexico with its various transmission lines as well as the Southwest Power Pool (SPP) area, which is interconnected with several other states. Ms. Segner said that the FERC voted 4-1 that competitive pressures should come into the transmission industry nationally because it is anticipated that there will be \$300 billion in infrastructure needs nationally in the next 25 years. She ended by saying this legislation would shut off the state to competition.

#### *Akin Gump Strauss Hauer & Feld LLP*

Suede Kelly, partner, Akin Gump Strauss Hauer & Feld LLP, elaborated on FERC Order No. 1000, which requires transmission providers to participate in regional planning processes with neighboring utilities. The U.S. Court of Appeals for the District of Columbia Circuit unanimously affirmed the order in August 2014.

The Federal Power Act does not expressly give the FERC the authority to regulate transmission planning by public utilities; however, the court held that the FERC has the authority.

#### *ITC Great Plains*

Simon Whitelocke and Michael White of ITC Great Plains described how their company focuses on owning and operating transmission, has a good track record, has service territories like the SPP's and has built transmission lines in other service territories. ITC feels that the proposed ROFR legislation is not necessary. Mr. Whitelocke and Mr. White reported that ITC operates in seven states and is the tenth-largest transmission-owning company in the country. ITC does not generate or sell electricity but serves as the conduit for transmission. ITC is a member of three regional transmission organizations (RTOs) and supports open and transparent regional planning processes led by the RTOs.

#### *Lucky Corridor, LLC*

Lucky Corridor, LLC, is a developer of transmission facilities needed to update the western grid near the Four Corners hub. Lucky Corridor currently has two transmission projects in New Mexico. The Mora Line project is designed to carry 180 megawatts (MW) at 115 kilovolts (kV) for 102 miles, and the Lucky Corridor project is designed to carry 700 MW at 345 kV for 130 miles. Combined, the projects will carry approximately 880 MW of electricity from first-rate U.S. clean-energy resources toward the Four Corners region. Lucky Corridor plans to add 100 miles of new transmission lines and ultimately increase the quality of resources in the state.

#### *SPP*

The SPP is a nonprofit designated by the FERC to operate an electrical grid. The FERC sets the wholesale rate of transmission. The SPP is currently seeking recovery for the costs included in a FERC-free tariff. In 2015, the SPP will enter its first set of competitive projects by soliciting proposals. SPP representatives told the committee that they are not seeking endorsement.